IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FARAD CONTINUATION SHEET
SECOND APPEAL NO.1283 OF 2005

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Office Notes,Office memorandum of Coram, appearances,Court's orders or directions & Registrar's orders.	Court's or Judge's orders

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Mr.Sandeep Bhagwat for the Appellant
Mr.S.M.Kazi for Respondent Nos.1 to 7

CORAM: A.S.OKA, J.
DATED: JULY 27, 2006.

P.C.:

1. Heard Advocates for the parties. A suit simplicitor for perpetual injunction filed by the Appellant-Plaintiff has been dismissed by the Trial Court and the Appellate Court has confirmed the Decree.

2. The learned Advocate for the Appellant pointed out that Trial Court recorded a finding that the Appellant has established his possession over the suit property. He pointed out that the said finding of fact is upset by the Appellate Court. The documentary evidence on record clearly establishes the possession of the Appellant over the suit property.

3. Perusal of the plaint filed by the

Appellant shows that admittedly the suit property was acquired by his grand father. After the demise of the grand father Appellant's father became the owner. It is specifically asserted that the Appellant is the eldest son of his father. The Appellant has stated that he is residing at Bombay on account of his employment.

4. Thus, admitted position is that the suit property is ancestral property and the Appellant is claiming to be the Karta of the joint family. Thus, the Appellant cannot claim any exclusive possession over the suit property. That is the precise reason why the Trial Court declined to grant decree of perpetual injunction in favour of the Appellant. From the admitted position as reflected, relief of perpetual injunction could not have been granted in favour of the Plaintiff.

5. No substantial question of law arises. Appeal is dismissed with no order as to costs.

Judge.